



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.                                                                                                 | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.        |
|-----------------------------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|-------------------------|
| 10/045,738                                                                                                      | 10/29/2001  | Kazuhito Ichihara    | 1990.65934          | 9722                    |
| 7590                                                                                                            | 05/06/2004  |                      |                     | EXAMINER<br>FABER, ALAN |
| Patrick G. Burns, Esq.<br>GREER, BURNS & CRAIN, LTD.<br>Suite 2500<br>300 South Wacker Dr.<br>Chicago, IL 60606 |             |                      | ART UNIT<br>2651    | PAPER NUMBER<br>7       |
| DATE MAILED: 05/06/2004                                                                                         |             |                      |                     |                         |

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|------------------------------|------------------------|---------------------|
|                              | 10/045,738             | ICHIHARA ET AL.     |
| Examiner                     | Art Unit               |                     |
| Alan Faber                   | 2651                   |                     |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 01 March 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-99 is/are pending in the application.  
4a) Of the above claim(s) 23-33, 56-66 and 89-99 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-22, 34-55 and 67-88 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 1-99 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

1. The IDS has been considered. Kuki is cited as of interest.
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
3. Claims 23-33,56-66,89-99 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.
4. Applicant's election with traverse of claims 1-22, 34-55, 67-88 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that the species searches will overlap. This is not found persuasive because the applicants have failed to submit evidence showing that the species are obvious variants.  
The requirement is still deemed proper and is therefore made FINAL.
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1,12,34,45,67,78 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,185,175, hereinafter "Zook".  
Zook shows a recorder/player apparatus, and associated method, comprising equalizer 74, and noise correlation, storing, white noise calculator, and input signal arithmetic 95, col. 9, ll. 20-50, col. 10, ll. 25-50.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-22,34-55,67-88 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrases in claims 1,12,34,45,67,78 drawn to "input signal patterns of the present and past or future", and deviation and correlation of noises are unclear. Relative to what?

The phrase in claims 3,14,36,47,69,80 drawn to "one-precedent to the present state to the present state in the past and the future" is vague.

The phrase in claims 4,15,37,48,70,81 drawn to "only the past or future as targets" is indefinite.

The phrase in claims 6,17,39,50,72,83 drawn to "an MTR restriction and the like" is unclear.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Faber whose telephone number is (703) 308-4816. The examiner can normally be reached on flextime (M-F).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on (703) 308-4825. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan Faber  
Primary Examiner  
Art Unit 2651

\*\*\*